CONFERENCE OF THE COMMITTEE ON DISARMAMENT

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REPORT OF THE WORKING GROUP ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES TO THE PLENARY OF THE CCD

1. On 1 July 1976, the Conference of the Committee on Disarmament (CCD/PV.708) established, for 1976, a Working Group of the CCD, for the purpose of considering any modifications of the identical texts of a Draft Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques, submitted on 21 August 1975 by the delegations of the Soviet Union and the United States as CCD/471 and CCD/472 respectively, that any delegation might propose and of facilitating the negotiation of the text of an agreement.

2. The Working Group held twenty-nine meetings between 2 July and 1 September 1976, in which all the members attending the 1976 session of the CCD participated. In addition, various delegations held informal consultations amongst themselves over the same period on matters related to the Draft Convention.

3. During its deliberations the Working Group considered modifications proposed by various delegations to the identical texts of the Draft Convention contained in documents CCD/471 and CCD/472. There was agreement on many of these modifications but no agreement on others.

4. The text of the Draft Convention, as modified, is reproduced in the following paragraph. The comments of some delegations on this text, as well as dissenting views or reservations, are given in paragraphs 6 to 19.

5. DRAFT CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The States Parties to this Convention,

Guided by the interest of consolidating peace, and wishing to contribute to the cause of halting the arms race, and of bringing about general and complete disarmament under strict and effective international control, and of saving mankind from the danger of using new means of warfare,

Determined to continue negotiations with a view to achieving effective progress towards further measures in the field of disarmament,

Recognizing that scientific and technical advances may open new possibilities with respect to modification of the environment,

Recalling the Declaration of the United Nations Conference on the Human Environment adopted in Stockholm on 16 June 1972,

Realizing that the use of environmental modification techniques for peaceful purposes could improve the inter-relationship of man and nature and contribute to the preservation and improvement of the environment for the benefit of present and future generations,

Recognizing, however, that military or any other hostile use of such techniques could have effects extremely harmful to human welfare,

Desiring to prohibit effectively military or any other hostile use of environmental modification techniques in order to eliminate the dangers to mankind from such use, and affirming their willingness to work towards the achievement of this objective,

Desiring also to contribute to the strengthening of trust among nations and to the further improvement of the international situation in accordance with the purposes and principles of the Charter of the United Nations,

Have agreed as follows:

ARTICLE I

1. Each State Party to this Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.

2. Each State Party to this Convention undertakes not to assist, encourage or induce any State, group of States or international organization to engage in activities contrary to the provisions of paragraph 1 of this Article.

ARTICLE II

As used in Article I, the term "environmental modification techniques" refers to any technique for changing -- through the deliberate manipulation of natural processes -- the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere, and atmosphere, or of outer space.

ARTICLE III

1. The provisions of this Convention shall not hinder the use of environmental modification techniques for peaceful purposes and shall be without prejudice to generally recognized principles and applicable rules of international law concerning such use.

2. The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of scientific and technological information on the use of environmental modification techniques for peaceful purposes. States Parties in a position to do so shall contribute, alone or together with other States or international organizations, to international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment, with due consideration for the needs of the developing areas of the world.

ARTICLE IV

Each State Party to this Convention undertakes to take any measures it considers necessary in accordance with its constitutional processes to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control.

ARTICLE V

1. The States Parties to this Convention undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Convention. Consultation and co-operation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in paragraph 2 of this Article.

2. For the purposes set forth in paragraph 1 of this Article, the Depositary shall, within one month of the receipt of a request from any State Party, convene a Consultative Committee of Experts. Any State Party may appoint an expert to this Committee whose functions and rules of procedure are set out in the Annex, which constitutes an integral part of this Convention. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

3. Any State Party to this Convention which has reasons to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

4. Each State Party to this Convention undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

5. Each State Party to this Convention undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any Party to the Convention which so requests, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of violation of the Convention.

ARTICLE VI

1. Any State Party may propose amendments to this Convention. The text of any proposed amendment shall be submitted to the Depositary who shall promptly circulate it to all States Parties.

2. An amendment shall enter into force for all States Parties which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

ARTICLE VII

This Convention shall be of unlimited duration.

ARTICLE VIII

1. Five years after the entry into force of this Convention, a conference of the States Parties to the Convention shall be convened by the Depositary in Geneva, Switzerland. The Conference shall review the operation of the Convention with a view to ensuring that its purposes and provisions are being realized, and shall in particular examine the effectiveness of the provisions of paragraph 1 of Article I in eliminating the dangers of military or any other hostile use of environmental modification techniques.

2. At intervals of not less than five years thereafter, a majority of the States Parties to this Convention may obtain, by submitting a proposal to this effect to the Depositary, the convening of a conference with the same objectives.

3. If no review conference has been convened pursuant to paragraph 2 of this Article within ten years following the conclusion of a previous review conference, the Depositary shall solicit the views of all States Parties to this Convention on the holding of such a conference. If one-third or ten of the States Parties, whichever number is less, respond affirmatively, the Depositary shall take immediate steps to convene the conference.

ARTICLE IX

1. This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall enter into force upon the deposit with the Depositary of instruments of ratification by twenty Governments in accordance with paragraph 2 of this Article.

4. For those States whose instruments of ratification or accession are deposited after the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention and of any amendments thereto, as well as of the receipt of other notices.

6. This Convention shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

ARTICLE X

This Convention, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to the Governments of the signatory and acceding States.

In witness whereof, the undersigned, duly authorized thereto, have signed this Convention.

Done at ..... On .....

ANNEX

Consultative Committee of Experts

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to paragraph 1 of Article V of this Convention by the State Party requesting the convening of the Committee.

2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this Annex. The Committee shall decide procedural questions relative to the organization of its work where possible by consensus but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.

3. The Depositary or his Representative shall serve as the Chairman of the Committee.

4. Each expert may be assisted at meetings by one or more advisers.

5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

UNDERSTANDINGS

Draft Understanding relating to Article I

It is the understanding of the Committee that, for the purposes of this Convention, the terms "widespread", "long-lasting" and "severe" shall be interpreted as follows:

(a) "widespread": encompassing an area on the scale of several hundred square kilometres;

(b) "long-lasting": lasting for a period of months, or approximately a season;

(c) "severe": involving serious or significant disruption or harm to human life, natural and economic resources or other assets.

It is further understood that the interpretation set forth above is intended exclusively for this Convention and is not intended to prejudice the interpretation of the same or similar terms if used in connexion with any other international agreement.

Draft Understanding relating to Article II

It is the understanding of the Committee that the following examples are illustrative of phenomena that could be caused by the use of environmental modification techniques as defined in Article II of the Convention: earthquakes; tsunamis; an upset in the ecological balance of a region; changes in weather patterns (clouds, precipitation, cyclones of various types and tornadic storms); changes in climate patterns; changes in ocean currents; changes in the state of the ozone layer; and changes in the state of the ionosphere.

It is further understood that all the phenomena listed above, when produced by military or any other hostile use of environmental modification techniques, would result, or could reasonably be expected to result, in widespread, long-lasting or severe destruction, damage or injury. Thus, military or any other hostile use of environmental modification techniques as defined in Article II, so as to cause those phenomena as a means of destruction, damage or injury to another State Party, would be prohibited.

It is recognized, moreover, that the list of examples set out above is not exhaustive. Other phenomena which could result from the use of environmental modification techniques as defined in Article II could also be appropriately included. The absence of such phenomena from the list does not in any way imply that the undertaking contained in Article I would not be applicable to those phenomena, provided the criteria set out in that Article were met.

Draft Understanding relating to Article III

It is the understanding of the Committee that this Convention does not deal with the question whether or not a given use of environmental modification techniques for peaceful purposes is in accordance with generally recognized principles and applicable rules of international law.

Draft Understanding relating to Article VIII

It is the understanding of the Committee that a proposal to amend the Convention may also be considered at any Conference of Parties held pursuant to Article VIII. It is further understood that any proposed amendment that is intended for such consideration should, if possible, be submitted to the Depositary no less than 90 days before the commencement of the Conference.

6. The delegation of Argentina stated that, although it would not object to the consensus on transmitting the report of the Working Group to the plenary, it wished to place on record that it could not accept the Draft Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques on account of its well-known objections regarding Article I, paragraph 1 and Article II and their understandings, repeatedly expressed in the plenary meetings of the CCD and in the Working Group. The delegation also reserved the right to revert to these important matters in the plenary of the CCD and at the General Assembly of the United Nations when this draft Convention was considered.

7. The delegation of Mexico stated that, for the reasons explained at the 724th meeting of the CCD, the delegation considered that the wording of Article I of the Draft Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques, which had originated from the identical texts submitted in August 1975 by the delegations of the United States and the Soviet Union, was totally unacceptable. It was convinced that, if the desire was that the General Assembly of the United Nations should be able to recommend this text to the Member States, it was essential to delete the qualifying phrase "having widespread, long-lasting or severe effects". That would at least avert the danger that the provisions of paragraph 1, albeit much inferior to those of the original USSR text of 1974, might legitimize many acts of environmental warfare.

8. The delegation of India stated that it supported the transmittal to the plenary of the Draft Convention which had just been negotiated. However, this support was at the delegation level only. The delegation had not had enough time to obtain the final instructions of the Government of India. Thus, the delegation of India reserved its right to offer final comments at a later stage.

9. The delegation of Brazil stated that it was its understanding that the Draft Understanding relating to Article I would not be included as an annex to the Draft Convention, but would be recorded in the report of the CCD to the General Assembly. The delegation of Brazil would prefer this second alternative. In any case the delegation reserved the position of the Brazilian Government on this subject. The reservation was of a substantive nature because, as already stated by the delegation in the course of the debates, it considered the above-mentioned interpretations definitely not satisfactory. In spite of this formal reservation, the Brazilian delegation would not oppose a consensus to submit the Draft Convention to the consideration of the General Assembly.

10. The Yugoslav delegation said it was not satisfied from the beginning with the scope and some other provisions of the text of the Draft Convention. It had put on record some of its requests for amendments to the text of the Draft Convention and had given support to a number of other amendments and suggestions put forth by other delegations. In the process of negotiation in the Working Group, there had been improvements of the text of the Draft Convention, including acceptance of some amendments by the Yugoslav delegation. The delegation found those modifications useful. However, until now the Yugoslav delegation had received no instruction from its Government in regard to the acceptance or non-acceptance of the Draft Convention as a whole. For that reason it wished to state for the record, without prejudging any decision that the Yugoslav Government might take, that on the delegation level it would not object to the consensus in the Working Group in respect to the transmittal of its report to the CCD. It wished also to reserve the right of the Yugoslav Government and the delegation to state their views in respect of the Draft Convention at a later date.

11. At the delegation level, the delegation of the Federal Republic of Germany welcomed the results of the negotiations of the Working Group. Considering the short interval between the termination of these negotiations and the presentation of the report of the Working Group to the CCD, there had not been sufficient time for the Government of the Federal Republic of Germany to examine the draft in a thorough manner. Thus, on behalf of the Government of the Federal Republic of Germany, the delegation reserved the right to further comment on the draft at later stages.

12. The delegation of the Netherlands could, in general, accept the text of the Draft Convention. The Netherlands Government reserved its right to make comments on the Draft Convention during the 1976 session of the General Assembly of the United Nations.

13. The delegation of Pakistan said it was still awaiting firm instructions from its Government and, therefore, was not in a position to give definitive views on the Draft Convention. It would like, however, to put on record its views on some of the provisions of the draft. Regarding Article I, it felt that the phrase "having widespread, long-lasting or severe effects" would not only limit the scope of the prohibition but would render its interpretation difficult. The delegation failed to understand why, in a situation in which exception had already been made in respect of use of environmental modification techniques for "peaceful purposes", "hostile use" of these techniques below a certain threshold should be

sanctioned at the same time. In spite of this, the delegation had stated that it would not press for the exclusion of the words "widespread, long-lasting or severe", provided they were defined in a manner that was both precise and realistic, so as to avoid misinterpretation and to take into account the damage that could be suffered by a State. In the present draft such definitions had been relegated into an Understanding of the Committee, the status of which was unclear, so that doubts could be entertained about its effectiveness. In respect of the Understanding of the Committee relating to Article II, the delegation of Pakistan would like to add its own understanding that the phrase "ecological balance" encompassed the region's hydrological balance as well. With regard to Article III about the use of environmental modification techniques for peaceful purposes, the delegation of Pakistan wished to reiterate that it would be necessary to verify such peaceful uses, in order to ensure that they were indeed peaceful and could not be diverted to hostile uses. The delegation would have also preferred if the Draft Convention had included a provision on the obligation of States to ensure that their use of environmental modification techniques for peaceful purposes would not result in adverse effects for other States. Regarding Article V, the delegation would be prepared, in principle, to accept the Article as drafted, subject to further technical examination. However, it continued to entertain doubts whether the modalities of a Consultative Committee of Experts would be effective in preventing violations of the Convention. For this purpose, it would have been better to create a machinery which could effectively prevent any threatened violations of the Convention. In conclusion, the delegation of Pakistan would not object, at the delegation level, to a consensus on transmitting the report of the Working Group to the plenary. The delegation, however, reserved the right to offer comments at a later date.

14. The delegation of Romania expressed its satisfaction for the working atmosphere that had generally prevailed during the proceedings in the Working Group. At the same time, it noted that a number of important issues had not been given in the Working Group the thorough consideration they deserved and not enough efforts had been made to accommodate the views of all delegations. The fact that the Draft Convention, as modified, still presented insurmountable difficulties for a number of delegations raised a serious problem, the consequence being that the Convention, conceived to be truly international, failed from its very inception to respond to the interests of all nations. Regarding the Preamble of the

Draft Convention, the delegation of Romania reiterated the importance it attached to the commitment by all States Parties to continue negotiations, in order to achieve further effective measures in the field of disarmament. It regarded this provision as a minimal satisfaction to be given to those delegations which considered that, in view of the hypothetical nature of the environmental modification techniques, the immediate value of the Convention consisted primarily in the future action that it might be able to stimulate in other fields of disarmament. In this connexion the Romanian delegation held that paragraph 2 of the Preamble considerably limited the scope of the impact that the Convention might have for further disarmament measures, by failing to mention the priority to be given to nuclear disarmament. On Article I, the delegation of Romania reiterated the strong preference it had expressed during the deliberations of the Working Group for a Convention which was comprehensive in its scope, prohibiting the military use of all environmental modification techniques. It was its understanding, therefore, that, should the Convention remain unchanged, Article VIII of the present draft included a definite commitment by all States Parties to keep the question of the scope of the Convention under constant observation and also to take advantage of the First Review Conference, in order to engage in concrete negotiations with a view to banning those environmental modification techniques which remained below the level of magnitude established by the Draft Convention in its present form. On Article V, the delegation held that, although in its present form Article V had been much improved as compared with its initial version, it still maintained the central role of the Security Council in deciding in the future on any complaint, in case of possible violations of the Convention. In this connexion, the delegation of Romania considered that the system of verification and control to be provided for any international convention should be based on the equal protection of all Parties and on their equal participation in any complaint procedures. It was its understanding, therefore, that should such cases of possible violations of the Convention arise in the future, the above principle must be fully observed. Finally, as regards the question of the transmission of the Draft Convention to the General Assembly, the delegation of Romania stated its position to the effect that the transmission of the Draft Convention should be fully consistent with the rules of procedure under which the CCD presently worked.

15. The Italian delegation approved the transmission of the modified text of the Draft Convention by the Working Group to the CCD, but reserved its right to comment on it at a later stage, pending the final position of the Italian Government on the same text. The Italian delegation stated that in Article II of the Draft Convention the words "or affecting" should be added after the word "changing", to make it clear that the provision of paragraph 1 of Article I also applied to the deliberate use of any technique which would have an adverse influence, other than a change, in the dynamics, composition or structure of the Earth, etc. The Italian delegation also held the view that Article III should contain a provision establishing the responsibility of States Parties for damages or injuries deriving from the use of environmental modification techniques for peaceful purposes. It stated that such a provision would, inter alia, greatly help to prevent that prohibited activities under the Draft Convention might actually be disguised as peaceful ones.

16. The Ethiopian delegation reserved the position of the Ethiopian Government on the modified text of the Draft Convention. However, this should not be taken to imply that the Ethiopian delegation opposed the forwarding of the draft text to the CCD and eventually to the General Assembly of the United Nations.

17. The delegations of the United States and the Soviet Union were of the view that the complete draft text of a convention on the prohibition of military or any other hostile use of environmental modification techniques, resulting from the proceedings of the Working Group, represented a considerable accomplishment. They noted that a large majority of delegations shared this view. They also observed that the draft was significantly modified from the identical drafts which were tabled in the CCD in August 1975; this reflected accommodation of the co-sponsors' positions to views stated by others in the Working Group and the CCD itself. Both delegations were gratified that a broadly agreed text was worked out in a genuinely multilateral process. The Soviet and American delegations were further of the view that the modified draft text would accomplish the main objective of effectively eliminating the real dangers of military or any other hostile use of environmental modification techniques. Accordingly, they recommended that the CCD accept the text as forwarded to the Committee in this report.

18. The Egyptian delegation recalled that it had already expressed its views on the subject of the Draft Convention at the 701st meeting of the CCD and in the meetings of the Working Group. The delegation would like to reserve its position on the following Articles and also reserve its right to make further comments on the Draft Convention at later stages. With regard to Article I, the delegation of Egypt (a) believed in the addition of the words "or threat of use" after the word "use" in paragraph 1; (b) preferred a reference to "hostile" uses of environmental modification techniques without mentioning the word "military" in the same paragraph; (c) supported the deletion of the word "Party" at the end of the same paragraph. Concerning the scope of the prohibition of the use of environmental modification techniques, the delegation would prefer the deletion of the words "having widespread, long-lasting or severe effects." Concerning Article II, the delegation of Egypt had supported the Italian proposal concerning the addition of the words "or affecting" after the word "changing". Concerning Article III, the delegation had noted that no mention was made in the Article about the liability of States Parties concerning the peaceful use of environmental modification techniques which might cause damage or injury to any other State, a principle already applicable in the field of international law. In spite of these comments, the delegation of Egypt remained convinced of the usefulness and value of the Draft Convention. It had made its comments in a constructive spirit, with a view not to be an obstacle of any kind to whatever agreement could be reached within the Working Group.

19. The Swedish delegation said that its Government was in general agreement with the text of the amended Draft Convention. The Swedish Government reserved its right to make comments on the amended Draft Convention in the General Assembly of the United Nations.